

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
LYNCHBURG DIVISION

R.M.B., by his next friends and parents,)
Robert Bruce Bays and Linda Markham Bays,)
and)
ROBERT BRUCE BAYS)
and)
LINDA MARKHAM BAYS,)
Plaintiffs,)
v.) Case No. 6:15cv4
BEDFORD COUNTY SCHOOL BOARD,)
BEDFORD COUNTY PUBLIC SCHOOLS,)
BRIAN WILSON,)
DR. FREDERICK M. DUIS, JR.,)
and)
M. M. CALOHAN,)
Defendants.)

**MOTION TO DISMISS FOR DEFENDANTS BEDFORD COUNTY SCHOOL BOARD/
BEDFORD COUNTY PUBLIC SCHOOLS, BRIAN WILSON, AND DR. FREDERICK M.
DUIS, JR.**

Defendants Bedford County School Board/Bedford County Public Schools, Brian Wilson, and Dr. Frederick M. Duis, Jr., by counsel, move pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure to dismiss the complaint because it fails to state a claim upon which relief can be granted and in support thereof state as follows:

1. Count IV fails to state a claim for injunctive relief against Defendants Bedford County School Board/Bedford County Public Schools¹ and Brian Wilson because Plaintiffs are not suffering irreparable harm as a matter of law. Plaintiff RMB is receiving a free public education in the form of an alternative education program which provides Plaintiff an

¹ Bedford County Public Schools is not an entity capable of suing or being sued.

opportunity to return to regular school when Plaintiff complies with the conditions placed upon him as part of the disciplinary process.

2. Count V fails to state a claim upon which relief can be granted because the damages sought in Count V are not available to Robert Bruce Bays and Linda Markham Bays.

3. Count I fails to state a claim upon which relief can be granted against Defendants Wilson and Duis because the allegations in the Complaint show that Plaintiffs received all process due them.

For the foregoing reasons, Defendants Bedford County School Board/Bedford County Public Schools, Brian Wilson, and Dr. Frederick M. Duis, Jr. respectfully move the Court to sustain their motion to dismiss and dismiss the Complaint against Defendants Bedford County School Board/Bedford County Public Schools, Brian Wilson, and Dr. Frederick M. Duis, Jr., with prejudice.

BEDFORD COUNTY SCHOOL BOARD/
BEDFORD COUNTY PUBLIC SCHOOLS,
BRIAN WILSON, and
DR. FREDERICK M. DUIS, JR.

By /s/ Jim H. Guynn, Jr.
Jim H. Guynn, Jr.
Virginia bar number 22299
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CERTIFICATE OF SERVICE

I do hereby certify that on this 27th day of February, 2015, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

Melvin E. Williams, Esq.
1320 3rd Street, SW
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Counsel for Plaintiff

By /s/ Jim H. Guynn, Jr.